

Only shedding tears is not enough

Mr. Sayaf calls reports of the AIHRC, HRW and other human rights activists accusing him of human rights violations, partial. He has not addressed the criticisms, concerns and accusations of the victims' families and those who have lost their limbs in the massacre. By Abdul Jalil Benish the SALSAL WEEKLY (Kabul) December 23, 2006

“Peace, reconciliation and justice in Afghanistan; the action plan of the Islamic Republic of Afghanistan” is a program which was provided by the Afghan government, UNAMA and the Afghan Independent Human Rights Commission (AIHRC). The plan was prepared after the (AIHRC) consulted 6,000 people about the past crimes and published the result as “The Voice of the People for Justice.”ⁱ This action plan was discussed and approved at the “Hague conference on Peace and Justice in Afghanistan,” held on June 5-6, 2005 in the Netherlands. Participants in the conference were special representative of the UN Secretary General, the Afghan government, the Supreme Court, AIHRC Chairperson, EU special representative in Afghanistan and many of the countries that are involved in the reconstruction of Afghanistan. The plan was endorsed later by the Afghan cabinet as well.

The plan consists of five basic parts. “One: acknowledgement of the suffering of the Afghans; two: creation of authoritative and accountable government institutions and clearing of the government institutions of human rights violators and criminals; three: fact finding and documentation; four: promotion of reconciliation and strengthening of the national unity; and, five: creation of effective and logical mechanism for accountabilityⁱⁱ.”

The time framework for implementation of this program is considered to be three years. According to the schedule that was considered in the action plan, parts of this plan were to have been implemented during 2005 and 2006. However, due to certain reasons that are not clear, this plan was not implemented as scheduled. Finally, on December 10, concurrent with the fifty eight anniversary celebration of the Universal Human Rights Declaration, the action plan of the transitional justice was started with a show of a documentary film in which the victims insist that they would not forgive the criminals and human rights violators. In the celebration, President Hamid Karzai; Dr. Sima Samar, chairperson of AIHRC; and Tom Koenigs, special UN representative for Afghanistan gave speeches.

Mr. Karzai was visibly upset by watching the film and several times was brought to tears. As he had difficulty speaking, Mr. Karzai said the elements causing the violations in Afghanistan are the foreign aggressions and the Afghans should unite to end the former and current crimes in the country. Dr. Samar said providing justice and strengthening of rule of law in Afghanistan require courageous steps. Tom Koenigs congratulated President Karzai for the launch of action plan.

From the five “key sections” included in the “action plan,” the second section: “creation of authoritative and accountable institutions and clearing the government institutions of criminals and human rights violators” is considered the most important and challenging section in the “action plan” at this stage. This section has caused more reaction and

sensitivity than any other parts of the action plan among the alleged violators of human rights and they have shown serious reaction to the plan. On the other hand, AIHRC and many of the national and international human rights entities have stressed the application of this “key section” and are insisting on its enforcement. Moreover, last year a conference was convened under the title of “truth-seeking and reconciliation” for three days (December 13-16) in Kabul. In the conference, representatives of the government, national and international human rights organizations and people from across the country had taken part. Their most important decision was also the removal of the abusers and the human rights violators from positions of power:” *There is a pressing need for other transitional justice measures, in particular administrative reform as well as measures to remove human rights abusers from positions of power. Vetting of officials is regarded as an immediate priority. The removal of human rights violators from government and other official positions is regarded as a prerequisite to improving security conditions and creating an environment conducive to other transitional justice activities. Participants also expressed a strong desire to see prosecutions of perpetrators. It is recognized that the justice system in Afghanistan lacks capacity at this time and that successful prosecutions of perpetrators require accelerated national and international efforts to rebuild key institutions within the criminal justice sector.*”ⁱⁱⁱ

Human Rights Watch in connection to the start of the action plan, issued a statement titled “*Afghanistan: Justice for War Criminals Essential to Peace, Karzai Must Hold Officials Accountable for Past Crimes,*”^{iv} and published a list of those who are accused of violating the human rights and who are occupying high post in the government. The statement demanded the immediate removal of these people from these posts. Abdur Rab Rasoul Sayaf, member and chairman of the international commission of the parliament; Burhanuddin Rabbani, member and chairman of legislation commission of the parliament; Mohd. Ismael, minister of Energy and water; Mohd. Karim Khalili, second vice president; Mohd. Qasim Fahim, security advisor to the president; and Abdur Rashid Dostum, Chief of staff of the armed forces of the Islamic Republic of Afghanistan are among those named in the list.

With the official start of the action plan of transitional justice program, some of the people who are accused of human rights violations showed serious reaction to the program. Mohd. Ismael, minister of energy and power is one of the commanders who had been the ruler of Herat province for nearly a decade and is being named in several Human Rights Watch (HRW) reports as a violator of human rights.^v In reaction to the program, he told in an interview with Tolo TV^{vi} on December 17 that they are the “Vanguards of freedom” in Afghanistan and aside from the Afghans; nobody has the right to put them on trial. He said the people of Afghanistan would protect their glories.

Abdur Rab Rassoul Sayyaf, member and chairman of the international commission of the parliament, is another of those commanders whose name is included in many of the human rights reports accusing him of violating those rights. Mr. Sayyaf said in an interview with Tolo TV that Seema Samar is a member of RAWA (Revolutionary Association of Women of Afghanistan) and cannot put him on trial. He alleged that the AIHRC is not impartial. He said RAWA should be put on trial not him, if they want to put on trial, let them dare to do so, he said defiantly. He said he welcomes investigations and opinion polls that are carried out by the people of Afghanistan.

This is not the first time that Sayyaf is reacting harshly against the reports of human rights abuses and accountability of the human rights violators. Last year also in a reaction to a report accusing him of human rights violations, he said whatever he had done, was good and was carried out deliberately and intently and he is not remorseful. Whenever Mr. Sayyaf reacts to or protests against the human rights reports, he accuses Dr. Seema Samar of partiality and of membership in RAWA, though he has not presented any documents showing Dr. Samar's alleged membership to RAWA.

The biggest accusation that is leveled against Mr. Sayyaf by HRW is his role in ordering of the massacre of civilians of Afshar township in western suburb of Kabul that was carried out in the 1990's during the factional fighting. In that incident, hundreds of innocent civilians were systematically massacred, their properties were plundered and their houses were destroyed and ruined. The area is still partially in ruin and is a reminder of bitter memories left by more than two decades of war and destruction in the country. Although Mr. Sayaf has reacted defiantly and harshly to the reports accusing him of human rights violations, he has not shown any courage to honestly apologize to the victims of the massacre as some others of those accused of involvement in the massacre have done so. Mr. Sayyaf calls reports of the AIHRC, HRW and other human rights activists accusing him of human rights violations, partial. He has not addressed the criticisms, concerns and accusations of the victims' families and those who have lost their limbs in the massacre. Mr. Ehsan, a 34 year old man is one of the victims of the Afshar massacre. He is the only surviving member of his six member family. Five members of his family perished in the massacre. He was saved by his absence on the day of the massacre, but was later taken prisoner by Sayyaf forces^{vii}.

After the fall of the Taliban, among many priorities and needs that were important for Afghans, one was attending the cries of the victims who demanded restitution and prosecution of the criminals from the government and international community. However, with the passing of every year, the hopes of the people were dashed and nothing was done. Prosecution of the violators and restitution of the victims during these years were reduced to the occasional reports that were issued by some human rights groups. The start of the "action plan" of transitional justice, however, rekindled the hopes of the victims of past crimes for justice.

As the stability and security and in general the authority of government are becoming increasingly vulnerable and face obstacles; the violators are occupying a considerable portion of the government seats, having a decisive presence in the parliament; and with the passing of time speak so ever boldly, confidently and defiantly; we are faced with the following questions: Are the human rights violators ever going to be removed from important government seats? Are the war criminals ever going to be brought to justice? Is the action plan of the Afghan government going to be implemented? And finally, is the government interested in prosecuting the human rights violators and if so, can it do that?

Dr. Samar, in an interview with the Tolo TV on December 17 said "shedding of tears by Mr. Karzai was a courageous act that he showed in sympathy with the victims." Dr. Samar's expression shows that after five years of Mr. Karzai's government, his emotional outburst was a surprising act and she did not expect him to shed some tears for thousands of victims of the human rights crimes in Afghanistan. Dr. Samar, who heads the most important and biggest institution of human rights in Afghanistan, is in close contact with

Mr. Karzai. Mr. Karzai's act was so unbelievable and exceptional to Dr. Samar that she calls it courageous, because she knows very well that Mr. Karzai during the last five years has done little to heal the wounds of the victims to human rights crimes. During the last five years of his rule, Mr. Karzai has always supported the presence in the government of those accused in the war crimes and human rights violations and has given in to blackmail. After all this, only shedding some tears is not enough. Mr. Karzai should do more than that.

Mr. Karzai's statement after the tears, shows that even in his most emotionally moved state of mind, he does not have the courage to criticize the human rights violators and even to implicitly point to them. Instead, he sidesteps the issue and puts the blame of all crimes on foreigners and considers them the cause of the violence. It is true that at some points, some war criminals and human rights violators received foreign support; however, the real tragedy was carried out directly by the Afghans themselves, save some fightings that were initiated by the Soviet Red Army and the Taliban in which Al-Qaeda was involved. Lack of courage, excessive conservativeness, fear from war criminals and human rights violators and lack of belief in people, have been the main features of Mr. Karzai's political personality. Mr. Karzai has lost the courage to take action against the human rights violators and during the years of his rule has followed a policy of "appease and rule." With very little pressure from human right violators, he has given huge dividends to appease them. In escaping from reality and hiding his weaknesses, he has always blamed the foreigners. Some of the most notorious individuals accused of human rights violations are his closest aides in the government and cabinet. While the people of Afghanistan remember the horrible crimes carried out by those individuals and watch their ascendance to high posts in the government, Mr. Karzai with his infinite audacity tries to hide the obvious and says that "stability, security and strengthening of national unity" require this policy.

Part of the action plan of the Islamic state of Afghanistan states: "acknowledging the suffering of victims and accepting that in this country innocent people have been oppressed and abused, documenting the past events and their reasons and causes in an historical and comprehensive manner, compensation, promotion of national reconciliation, removal of human rights violations from official posts and restoring people and victims' confidence in the state would be the minimums that must be attended to^{viii}."

But as we see even these minimums that Mr. Karzai has mentioned in the action plan, he violates them before and more than the accused violators and in the course of one week. He undermined the very action plan that he had started, approved and announced to the people. In response to a statement of the Human Rights Watch on December 11, 2006 titled "*Afghanistan: Justice for War Criminals Essential to Peace, Karzai Must Hold Officials Accountable for Past Crimes*," Mr. Rahimi the government spokesman in a press conference announced that such reports would not help in providing security and stability in Afghanistan and the strengthening of national unity in the country. He said the views of the human rights organization which claims to be the protector of justice is in fact a violation of justice.

Considering the contradicting and opposing views of Mr. Karzai which are issued in the course of less than a week, it can be seen that not only he is not interested to implement

the action plan, but whoever talks of its application is not acceptable for him either. Mr. Karzai considers it appropriate to speak in support of the accused before them. His policy of appeasement and giving in to blackmail has emboldened Mr. Sayyaf to state defiantly that no one can put him on trial. Mr. Sayyaf even uses street tough guys' and macho talks in challenging the human rights groups. He proudly proclaims: "We did well, we did knowingly, intently and we have no remorse for what we did."

In Mr. Karzai's view prosecuting the accused will create problems for "stability, security and strengthening of unity" in the country. Probably this is the reason that Mr. Karzai appears to be more concerned than the concerned and jumps to the defense of the accused before they themselves act. Contrary to Mr. Karzai's perception of the relation between the investigation and security, the research and the analyses of the human rights groups indicate that the people detest the criminals and human rights violators. The consultations of the AIHRC with 6,000 people also confirm the view that the overwhelming majority of the people favor the prosecution and trial of the criminals. Also a large portion of the corruption, lack of security, organized crimes and the Mafia bands are associated with these people. Therefore, prosecution and trial of the accused in addition to helping provide security and stability in Afghanistan would help in fighting corruption, reducing organized crimes and drug trafficking. If the government with the help from the international community would prosecute decisively and fairly the criminals as stated in the "action plan," it would narrow the gap that exists between the people and the government. It would also increase people's confidence in the government. Since the existing problems for the people are largely caused by the accused, if they are prosecuted, the people would welcome it.

As the last word, Mr. Karzai should realize that for healing the wounds of the victims, only tears are not enough and he should not waste the opportunities and time that he has at his disposal in addressing the problems and the needs of the victims. He should not neglect or take light the sufferings of these people. Mr. Karzai should stop his conservatism, and instead of cajoling and appeasing the violators of human rights and building occasional and short term coalitions, should think about the long term stability of the country. He should trust the people and have no fear prosecuting the human rights violators and decisively implement the "action plan." This is a just cause. The people deserve restitution of the crimes committed against them. This is the least that Mr. Karzai as the elected president can do for them. Otherwise, if as before, he waits to finish his term in office and keep his lack of confidence in people by not believing in them, the people chance of freeing themselves from the domination of the "Vanguards of Freedom" will be lost for ever. This time Mr. Karzai will be remembered as the champion of treason in the archives political history of Afghanistan.

ⁱ http://www.aihrc.org.af/dari_rep_tj.htm

ⁱⁱ Action Plan, page3, Persian version

ⁱⁱⁱ Conference on truth-seeking & reconciliation, conference conclusions, December15, 2005, AIHRC website: http://www.aihrc.org.af/rep_eng_truthseeking_22-dec_05.htm

^{iv} published on 11 December 2006, www.hrw.org

^v "killing you is easy for us" "blood stained hands", www.hrw.org

^{vi} it is a private TV in Afghanistan

^{vii} Interview in December 2006 Kabul.

^{viii} Action Plan, page3, Persian version

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